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EXAMINER

FORD, JOHN K

ART UNIT

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3744

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



Applicant's response of October 20, 2009 has been carefully considered. It appears that claim 1 has been amended in such a way as to incorporate much of what was in original claim 3. Applicant does not explain exactly how the new limitations in claim 1 define over JP 2004-098780 at the bottom of page 11 of the October 20, 2009 response. It is noted that the quoted language (specifically paragraphs [0168]-[0170] from the specification) that has been brought to the examiner's attention by applicant is much more detailed than the limitations found in claim 1, even as amended. The arguments, to the extent that they are more than simply conclusions, are addressed in the rejections set forth below.

Previously applicant has elected Group I, claims 1-6, with traverse. Within Group I, applicant has also elected the overall species of Figure 2 (all of elected claims 1-6 being deemed, by applicant, readable on that overall species). Within Group I, applicant has also elected the first species of tension applying means illustrated in Figures 4-5 (and has identified claims 1 and 3-5 as being readable on that species). Finally, in order to be responsive to the election requirement, applicant has elected a seal species of Figure 27 (claims 28-34) which election is deemed moot because that species is apparently outside of the elected subject matter of Group I as evidenced by applicant's enumeration of claims readable on that species.

Applicant has amended claim 2 to depend from claim 1 and has asked that it be rejoined. While counsel doesn't state it explicitly, it appears that claim 2 as now

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amended is readable on the elected species of tension applying means illustrated in Figures 4-5. Accordingly claim 2 is rejoined here.

An action on the merits as to claims 1, 2, 4 and 5 follows.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 2, 4 and 5 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Applicant claims that the tension applying means has “a tension bridge supported by the non-contact projection....” There doesn’t appear to be any original disclosure to support the limitation that the tension bridge 32 is supported by the non-contact projection 30. It appears that the non-contact projection 30 is supported by and projects upwardly from the projected portion 24a and that projected portion 24a also supports the tension bridge 32 at the junction of the non-contact projection 30 and the tension bridge 32. See Figure 4. If applicant can point out some disclosure in the specification

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that supports his claim language as it is written, please do so. The examiner has read the specification carefully and cannot find any such disclosure.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In amended claim 1 applicant claims that the sliding unit comprises “a projected portion” and “a recessed portion”. The projected portion recitation is vague in the sense that it does not specify what the projected portion is projected relative to. Similarly the recessed portion recitation lacks any frame of reference from which the “recess” can be ascertained. It is also unclear in the recitation “and supports the point contact projection thereby applying tension...” what structure is being claimed that supports the point contact projection. Is it the tension applying means or is it the tension bridge or is it something else that supports the point contact projection?

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as anticipated by JP 2004-098780.

Slide door 6 moves along a guide groove 7 formed between guide walls 10a and 10b. The tension applying means is composed of elastic members 12 as well as stoppers 13 and 14. The sliding unit has a projected portion (the surface of element 6 closest to the elastic member 12) and a recessed portion (the surface of element 6 furthest from the elastic member 12). Regarding claim 1, the point of contact projection is the portion of elastic element 12 (hereinafter, the "apex") that is in contact with wall 10a in Figure 7. The non-contact projection is made up of element 14 in Figure 7 and the wall (no reference numeral) immediately below seal 19 in Figure 7. The tension bridge is the portion of elastic element 12 that is not in contact with wall 10a in Figure 7 (hereinafter, the "non-apex").

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Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2004-098780.

While JP '780 does not include the dimension of the gap between the point of contact projection and the non-contact projection it is submitted that one of ordinary skill in the art would recognize this variable to be a result effective variable that would depend, for example, on the materials that were used to construct the point of contact projection and the linear non-contact projection. As disclosed by applicant, for whatever plastic applicant uses, apparently 1mm is a good value to compensate for wear over time. If the same elements were made of metal, such as steel, one of ordinary skill in the art would choose smaller values since steel, because of its toughness, wears away much less rapidly than plastic. The particular value of the gap is therefore a design selection depending on factors not being claimed (such as materials of construction) and up for the designer to choose as it is a result effective variable and the subject of routine optimization. See In re Aller, 105 USPQ 233 (CCPA 1955).

Claim 2 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1<sup>st</sup> and 2<sup>nd</sup> paragraphs of claim 1, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Before the application could issue, claims 7-34 would have to be cancelled and a cogent argument made for the rejoinder of claim 6 (or in lieu of that cogent argument, cancellation of claim 6).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Ford whose telephone number is 571-272-4911. The examiner can normally be reached on Mon.-Fri. 9-5:30.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John K. Ford/  
Primary Examiner, Art Unit 3744